



EXECUTIVE MEMBER DELEGATED POWERS DECISION NOTICE

LOCAL GOVERNMENT ACT 2000 SECTION 9E

1 DETAILS OF EXECUTIVE MEMBER TAKING THE DECISION

Councillor Nick Pace – Executive Member, Housing And Community

2 TITLE OF REPORT

Queensway House Cladding Removal Phase 2

3 DECISION TAKEN

To approve the award of the contract to Borrás Construction Limited at a higher value than was originally quoted.

4 IF URGENT, REASONS FOR URGENCY

The Fire Service advised that the yellow cladding above the front entrance door presented a higher risk to fire fighters and residents evacuating the building. Acting on this advice, the council has removed both types of cladding, up to the third-floor level (Phase 1).

Borrás Construction were immediately appointed as the contractor for the Phase 1 cladding removal at Queensway House, with the prior approval of the Council's Risk and Resilience Manager, under the special dispensation that Phase 1 was an emergency Health and Safety requirement. Phase 2 is required as further cladding removal has been recommended by the Fire Service.

5 DETAILS OF OTHER EXECUTIVE MEMBER(S) CONSULTED

Name Councillor Nick Pace

Signature _____

Date this decision was taken 22 October 2020

Date of circulation/publication of this decision 22 October 2020

6 EXPLANATION/BACKGROUND

6.1 On 8th September 2020, a two-part report was presented to Cabinet in respect of a second phase of cladding removal at Queensway House. It was recommended that pursuant to Contract Procedure Rule 14 (k) (Alternative Procedures in Prescribed Circumstances) Cabinet agrees to waive the requirement for a competition to be carried out and for five (5) tenders to be obtained, on the basis that it is to the advantage of the Council that this rule should be waived.

6.2 Failure to prioritise remedial fire safety work in line with the advice given by the fire service may have resulted in Hertfordshire Fire and Rescue Service issuing a Regulatory Notice calling for corrective action. Additionally, if remedial fire safety work is not remedied within a set period of time, the fire service has powers under Article 31 of the Regulatory Reform (Fire Safety) Order 2005 and Sections 21 and 22 of the Health and Safety at Work etc. Act 1974, to prohibit the use of the whole or part of premises or to restrict the use of premises, particularly where conditions are found that constitute a serious risk to life or injury to persons in the event of fire.

The recommendation was approved by Cabinet.

6.3 Initial cladding removal

The Fire Service advised that the yellow cladding above the front entrance door presented a risk to fire fighters and residents evacuating the building. Acting on this advice, the council has removed both types of cladding, up to the third-floor level (Phase 1).

Borras Construction were immediately appointed as the contractor for the Phase 1 cladding removal at Queensway House, with the prior approval of the Council's Risk and Resilience Manager, under the special dispensation that Phase 1 was an emergency Health and Safety requirement.

Further advice from the fire service prompted the removal of the yellow render and metal corner cladding from the remaining storeys of Queensway House, ie above the third floor.

A contributory factor for the need to remove the additional cladding speedily was the impact of COVID affecting the rate at which the flats were being decanted and sold (in the case of leaseholders) and therefore exacerbating the perception of risk whilst the building was still occupied.

6.4 Phase 2 Update

The Part 2 report in September stated that a quotation of [REDACTED] had been received. Due to the urgency of this work, this was an estimated quotation provided by the supplier based on the Phase 1 removal works. However, due to the reasons set out below as notified by the contractor, the formal quotation for the work will be [REDACTED]

6.5 Preliminaries

The urgent nature of the work necessitated a quick response time for tenders

- Extending the programme by 2 weeks to allow for additional making good, brick and concrete repair works
- Christmas shut down
- The requirement for enhanced COVID -19 measures on site

Scaffold

- Enhanced debris netting
- Scaffold alarms, CCTV and lighting
- Difficulties of getting materials up to – and working at – high and exposed levels.

Additional works

- Additional making good, brick and concrete repair works (as above)
- Cladding support framework

With the exception of the above aforementioned items we have generally used the same rates as our previous quotation. This has been confirmed by the consultants supporting the council with this project – Press & Starkey - who state; “*The rates for removal of cladding are the same as in their previous quotation*”.

6.6 Budget and Funding

There is budget provision for the increase in cost as set out in the financial implications

Finally, whilst the report on 8th September stated that the Council would apply to the government’s Building Safety Fund, introduced in 2020, for the remediation of unsafe non-ACM cladding systems. It was also confirmed the Council would be able to fund the scheme should an application be unsuccessful. Following the decision, the award criteria was established to be on the basis that cladding would be removed and replaced (rather than just removed) and the bid was not progressed.

7 Legal Implications:

- 7.1 If remedial fire safety work is not remedied within a set period of time, the fire service have powers under Article 31 of the Regulatory Reform (Fire Safety) Order 2005 and Sections 21 and 22 of the Health and Safety at Work etc. Act 1974, to prohibit the use of the whole or part of premises or to restrict the use of premises, particularly where conditions are found that constitute a serious risk to life or injury to persons in the event of fire.
- 7.2 The removal of the cladding is a ‘works’ contract for the purposes of The Public Contracts Regulations 2015. The contract value is below the threshold for works contracts and, therefore, the contract will not trigger the application of the Regulations.
- 7.3 With respect to the Council’s own Contract Procedure Rules, Cabinet has – in the original report - waived the application of the requirements in accordance with Rule

14 (k) (Alternative Procedures in Prescribed Circumstances). One such prescribed circumstance is where Cabinet agrees a report from a Corporate Director detailing a case where it is to the advantage of the Council that these rules should be waived.'

8 Financial Implications:

8.1 As outlined in the Cabinet report on 8 September 2020, around £900k of capital budgets for works at Queensway House had been rolled forward from 2019/20. This budget will be used to fund the works.

8.2 As the cladding will not be replaced, the works will not be considered to be capital in nature, and therefore will be charged to revenue. The appropriate adjustments to reflect this change in the budgets will be made in the quarter 3 monitoring reports. These changes will not affect the councils reserves or borrowing position but is purely an adjustment to the accounting treatment.

9 Risk Implications

9.1 Hertfordshire Fire and Rescue Service have provided advice and assistance to the Council in planning and prioritising remedial fire safety work at Queensway House, including the removal of the 'Phase 2' cladding, of which the urgency is stated within this report.

9.2 Failure to prioritise remedial fire safety work in line with the advice given by the fire service may result in Hertfordshire Fire and Rescue Service issuing a Regulatory Notice calling for corrective action.

9.3 Additionally, if remedial fire safety work is not remedied within a set period of time, the fire service have powers under Article 31 of the Regulatory Reform (Fire Safety) Order 2005 and Sections 21 and 22 of the Health and Safety at Work etc. Act 1974, to prohibit the use of the whole or part of premises or to restrict the use of premises, particularly where conditions are found that constitute a serious risk to life or injury to persons in the event of fire.

9.4 The Council continue to work closely with Hertfordshire Fire and Rescue Service regarding the progress of remedial work required at Queensway House and patrols are in place to provide urgent assistance when necessary.

10 Other Implications (including communications, security and terrorism, human resources, procurement, climate change, human rights, health and wellbeing, equality and diversity)

10.1 N/A

11 Alternative options considered and reasons for their rejection (if any):

N/A

12 BACKGROUND PAPERS USED TO INFORM THE DECISION

12.1 Report to Cabinet on 8th September 2020 “QUEENSWAY HOUSE CLADDING REMOVAL – PHASE 2”. Part I and Part II papers

13 DETAILS OF ANY MEMBERS OR OFFICERS WHO HAVE DECLARED AN INTEREST IN THIS MATTER AND NATURE OF ANY SUCH INTEREST AND ANY DISPENSATIONS GRANTED

13.1 N/A

14 ADDITIONAL CONFIDENTIAL OR EXEMPT INFORMATION CONSIDERED

14.1 N/A

Contact Officer: Peter Gray, Head of Property Services (Housing)
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From: [Nick Pace](#)
To: [Alison Marston](#)
Date: 22 October 2020 08:53:07

Hi Alison,

Please accept this email, to exercise my delegated powers within para 18 of the Cabinet Procedure Rules in the Constitution for this decision around urgent remedial work to Queensway House

Nick

Cllr. Nick Pace
Executive Member, Housing and Community
Hollybush Ward
Welwyn Hatfield Borough Council
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Sent from my iPad